

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Private Unaided Junior Colleges – Appeal filed by Krishna Chaitanya Junior College, Nellore against withdrawal of Letter of Intent and disaffiliation by the Board of Intermediate Education for violation of instructions on conduction of Intermediate Public Examinations – Allowed - Orders – Issued.

HIGHER EDUCATION (IE.II) DEPARTMENT

G.O.Rt.No. 220

Dated 07-04-2011

Read the following:-

1. Proceedings of the Secretary, BIE., Lr.Rc.No.08075/E4-1/2005-06, dated 17-6-2010.
2. Appeal Petition filed by the Secretary & Correspondent, Sahitya Educational Society, Nellore, dated 5-7-2010.
3. From the Secretary, BIE., Lr.Rc.No.08075/E4-1/2005-06, dated 18-11-2010.
4. G.O.Rt.No.58 H.E.(IE.II) Dept., dated 28-1-2011.

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ORDER:

In the proceedings 1st read above, the Secretary, Board of Intermediate Education, A.P., Hyderabad has ordered for withdrawal of Letter of Intent and disaffiliation of Krishna Chaitanya Junior College, Nellore with effect from 2010-11 for violation of the instructions issued by the Board of Intermediate Education with regard to the conduct of Intermediate Public Examinations in the year 2010, by indulging in malpractice by making photo copies of Physics Paper-I on 20-3-2010 to supply them to their students by their staff.

2. In the reference 2nd read above, the Secretary & Correspondent, Sahitya Educational Society, Nellore has filed appeal petition U/s.89 of the A.P.Education Act 1982, against the order passed by the Secretary, Board of Intermediate Education dated 17-6-2010 for withdrawal of Letter of Intent and disaffiliation of the college and requested to set aside the impugned order of the Secretary, Board of Intermediate Education on the following grounds:-

- a) The impugned proceedings are unjust, arbitrary, without jurisdiction or competence.
- b) The conduction of examination is by the Board through its deputed officers. The premises were handed over days before commencement of the examinations to the Intermediate Board through the Chief Superintendent on 09-03-2010. This management has nothing to do with the conduct of examinations or with the any alleged malpractices in the conduct of the examinations. The management does not have even access and can not even enter the premises and the entire control and conduct of the examinations is to be made only by the Intermediate Board through its officers. To hold that the management is guilty of any malpractice or guilty of any leakage is wholly absurd and beyond anybody's reasoning capacity.
- c) The examination centre will be fixed and decided by the Intermediate Board only. Hall tickets are also distributed by the Board to the students of other institutions. Section 5 of the prevention of the Malpractice and Unfair Means Act 1997 clearly states that the person entrusted with this work of conducting examinations shall not directly and indirectly divulge any information "by virtue of the work so entrusted to him". It is not known as to how the management is responsible for any malpractice assuming it is true for argument's sake.

- d) If the Board feels that this venue for the public examination is not desirable for reason of any malpractices it could only be remedied by not granting the examination centre in our premises. But in no event the recognition or affiliation to the institution cannot be withdrawn.
- e) The malicious nature of the order is evident from the direction given to the Regional Inspection Officer to shift the students of the college, months after admissions and the commencement of the classes.
- f) The Secretary, Board of Intermediate Education unduly exercised his part without confining himself to the relevant provisions under the relevant acts and he is obviously intent upon destroying out institutions.
- g) The prevention of Malpractices Act 1997 only contemplates punishment of the concerned offices for indulging in malpractices with imprisonment and fine under sections 8 and 9 of the Act. In no event the recognition of institution itself can be withdrawn for such of malpractice with which the management is wholly unconcerned.
- h) The recognition and affiliation can only be withdrawn when the conditions imposed by their grant are violated and admittedly this is not the situation. Conditions do not prescribe any such violation relating tot the conduct of examinations, as the same is the responsibility of the Board and its officers.
- i) Further the Secretary has not referred this matter to the malpractice scrutiny committee and the Secretary acted illegally without referring the matter to the said committee or calling for its recommendation.
- j) The Secretary is not competent to withdraw the Letter of Intent and he has no jurisdiction to pass any such orders. Only the Board has the power either to grant or to withdraw.
- k) Therefore no rules prescribed under the Malpractice and Unfair Means Act, to withdraw recognition or affiliation as the management has nothing to do with the same.
- l) The G.O.Ms.No.114 dated 13-5-1997 made under this Malpractice and Unfair Means Act ford not provide for any such withdrawal of notice of interest.
- m) The general conditions in G.O.Ms.No.29 either in Rule 14(9) or 14(10) do not provide any such withdrawal or disaffiliation.
- n) There is no disobedience of any instruction or rule falsely alleged in the notice. The notice is in general terms. It is now known as to how the management of the institution has violated Rule 14(9) of G.O.Ms.No.29. It is also not shown as to how Rule 9 could be invoked without any material and basic facts.

3. The management in their appeal petition 2nd read above have also stated that the management has suspended the staff involved in the issue.

4. In the letter 3rd read above, the Secretary, Board of Intermediate Education has stated that the explanation submitted by the Krishna Chaitanya College, Nellore was not satisfactory and the management has violated instructions issued by the Board of Intermediate Education with regard to conduct of IPE-2010 and therefore the management is liable for punishment as per Rule 14(9) of G.O.Ms.No.29, dated 5-2-1987. The Board of

Intermediate Education has therefore issued orders dated 17-6-2010 for withdrawal of Letter of Intent and disaffiliation of the college.

5. Consequent upon filing appeal petition by Secretary & Correspondent, Sahitya Educational Society, Nellore, Government have issued interim stay orders vide G.O.4th read above, against the orders of the Secretary, Board of Intermediate Education in Progs.Rc.No.03/08075/E4-1/2005-06, dated 17-6-2010 withdrawing Letter of Intent and disaffiliation in respect of the petitioner's College, and further ordered that the position prior to the issue of the proceedings of the Secretary, Board of Intermediate Education shall prevail, to avoid hardship to the students studying Intermediate in the petitioners College, pending disposal of the appeal petition. The Secretary, Board of Intermediate Education was also directed to conduct examinations in the petitioner's College i.e. Krishana Chaitanya Junior College, SPSR.Nellore under close supervision of team of Senior Officers.

6. As per Section 90(1) of the A.P.Education Act, 1982 i.e. power of revision by the Government, an opportunity was given to the appellant and hearing was also conducted by the Hon'ble Minister (SE&IE) on 16-3-2011 and heard the petitioner.

7. After hearing, it is felt that the Management cannot escape from their responsibility when their staff are involved in the Malpractices. However they have taken timely action against the staff by removing them from service. The accused Officers will be punished by the competent Court of Law. Withdrawing letter of intent and affiliation of the Krishna Chaitanya College, SPSR.Nellore will have indirect effect on the career of the other students studying in the Institution.

8. Government have therefore examined the entire matter, and after careful consideration, decided to allow the appeal filed by M/s. Sahitya Educational Society and Krishna Chaitanya Junior College, SPSR.Nellore and set-aside the impugned order dated 17-6-2010, passed by the Secretary, Board of Intermediate Education. The Secretary, Board of Intermediate Education shall impose penalty of Rs.1.00 lakh (Rupees One Lakh only) on the Management of Krishna Chaitanya Junior College, SPSR.Nellore for the above lapse, as per the Rules of the Board of Intermediate Education. Accordingly, the appeal petition is allowed.

9. The Secretary, Board of Intermediate Education, A.P., Hyderabad shall take action accordingly and in future examinations in the Junior College shall be conducted under close supervision of a team of Senior Officers.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.D. SAMBASIVA RAO,
PRINCIPAL SECRETARY TO GOVERNMENT(SE)

To
The Secretary, Board of Intermediate Education, A.P., Hyderabad.
The Regional Inspection Officer, SPSR. Nellore.
The Secretary & Correspondent, Sahitya Educational Society, Nellore through
Board of Intermediate Education, Hyderabad.
Copy to
The P.S. to Minister (Secondary Education)
The P.S.to Prl.Secretary (Secondary Education)
SF/SC.

//Forwarded: By order//

SECTION OFFICER